

## **ORDINANCE #21-11**

### **PROPOSED ORDINANCE #21-11**

#### **AN ORDINANCE TO ADD ARTICLE VIII OF CHAPTER 12 OF THE WILLIAMSBURG CODE IN ORDER TO PROVIDE FOR IMPLEMENTATION OF § 10.1-1424.3 OF THE CODE OF VIRGINIA (1950), AS AMENDED AS PROVIDED IN HB 1902 ENACTED BY THE VIRGINIA GENERAL ASSEMBLY AT ITS 2021 SESSION, PROHIBITING THE USE OF POLYSTYRENE FOOD SERVICE CONTAINERS BY VENDORS OF PREPARED FOODS**

WHEREAS, at its 2021 Session, the Virginia General Assembly enacted HB 1902 that adds § 10.1-1424.3 to the Virginia Code, subsection A of which prohibits the use of polystyrene food service containers by vendors of prepared foods in the Commonwealth of Virginia; and

WHEREAS, Section 10.1-1424.3 of the Code of Virginia provides for an extension granted by the locality upon a showing of economic hardship; and

WHEREAS, it is necessary to provide for prohibition, extension and enforcement of said Code of Virginia §10.1-1424.3 in the City of Williamsburg.

NOW, THEREFORE, it is hereby ORDAINED, that the violation of the prohibitions of § 10.1-1424.3 of the Code of Virginia is hereby declared to be a public nuisance and that Chapter 12, Article VIII, Section 12-111 *et seq.* shall be added to the City Code as follows:

#### **Sec. 12-111. Definitions.**

“Expanded polystyrene food service container” means a rigid single-use container made primarily of expanded polystyrene and used in the restaurant and food service industry for serving or transporting prepared, ready-to-consume food or beverages. “Expanded polystyrene food service container” includes plates, cups, bowls, trays, and hinged containers but does not include packaging for unprepared foods or packaging, including a cooler, used in the shipment of food.

#### **Sec. 12-112. Prohibition on use of expanded polystyrene food service containers.**

a. Beginning July 1, 2023, no food vendor that is a restaurant or similar food establishment and is part of a chain with 20 or more locations offering for sale substantially the same menu items and doing business under the same name, regardless of the form of ownership of such locations, shall dispense prepared food to a customer in an expanded polystyrene food service container.

b. Beginning July 1, 2025, no food vendor of any type shall dispense prepared food to a customer in an expanded polystyrene food service container.

Sec. 12-113. Extensions.

Any food vendor located in the city may apply to the city manager for grant of an exemption from the provisions of section 12-112 by demonstrating to the satisfaction of the city manager or the manager's designee that compliance would impose an undue economic hardship on the applicant food vendor. For the purposes of this subsection, 'undue economic hardship' means a situation in which (i) the food vendor has no reasonable alternative its use of expanded polystyrene food service containers and (ii) compliance with section 12-112 would cause significant economic hardship to that food vendor. The exemption may be granted for a period of not more than one year from the date of the exemption. A food vendor granted such an exemption may reapply for extension of the exemption before the expiration of the exemption then in force, and upon demonstrating that compliance with section 12-112 would continue to impose an undue economic hardship on the applicant, the city manager or his designee may grant an additional exemption from the provisions of section 12-112 not to exceed one year for each such reapplication if the food vendor demonstrates a continuing undue economic hardship at the time of reapplication to the satisfaction of the city manager or manager's designee.

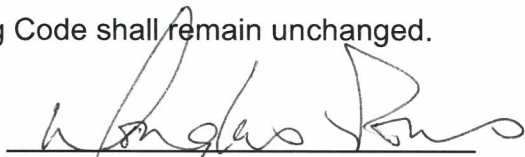
Sec. 12-113. Penalty.

Any person who violates any provision of this section, upon such finding of the circuit court, shall be assessed a civil penalty of \$50 for each day of such violation. Any civil penalty assessed pursuant to this section in a civil action brought by the city shall be paid to the city's finance department.

EXCEPT, as here amended, the Williamsburg Code shall remain unchanged.

Adopted: September 9, 2021

Attest:   
Sandi L. Filicko, Clerk

  
Douglas Pons, Mayor